

Remarks

In this response, no amendments to the claims have been made. Applicants have presented arguments to overcome the Examiner's rejections.

Claim Rejections - 35 U.S.C. § 112 1st Enablement

The Examiner rejected Claims 1-15 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. The Examiner suggests that the claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicants respectfully disagree with the Examiner.

Case law on Enablement was provided to the Examiner to reinforce the Examiner's burden which is to assume that the specification complies with the enablement provision of § 112 unless the Examiner has acceptable evidence or reasoning to suggest otherwise. Applicants have read the Examiner's comments and believe that the Examiner has not met his burden. The only evidence or reasoning that the Examiner has provided, Applicants have already stated in the Specification. That is GLP-1 has been shown to inhibit gastric emptying in healthy subjects and diabetic patients. (See Specification page 5 lines 23-25. "The ability of GLP-1 compounds to treat gastroparesis is surprising given the voluminous literature documenting the delay in gastric emptying that occurs when native GLP-1 is administered to humans).

However, Applicants have actual clinical data in human patients, supporting this invention, wherein GLP-1 in fact did not inhibit gastric motility. The studies depicted in figures 1 and 2 suggest that administration of a GLP-1 compound to type 2 diabetic patients without symptomatic gastroparesis does not delay gastric emptying compared to placebo. The time to peak glucose concentration following ingestion of a solid meal was identical for each group including the control group. This is evidence supporting Applicants invention. There is no reasoning or evidence given by the Examiner that the same result would not also be seen in symptomatic gastroparesis. In the absence of reasoning or evidence, the Examiner is required by direction of the Federal Circuit to assume that the specification is enabled.

SUMMARY AND CONCLUSION

Applicants respectfully assert that the application is in condition for allowance. The claims are fully enabled.

If, for any reason, the Examiner feels that a telephone conversation would be helpful in expediting the prosecution of this case, the Examiner is urged to call me.

Respectfully submitted,

/Gregory A. Cox/
Gregory A. Cox
Attorney for Applicants
Registration No. 47,504
Phone: 317-277-2620

Eli Lilly and Company
Patent Division/GAC
P.O. Box 6288
Indianapolis, Indiana 46206-6288

January 22, 2007 _____